

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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DANIEL W. KELLER,

Plaintiff,

v.

STATE OF NEVADA, *et al.*,

Defendants.

Case No. 3:25-cv-00042-MMD-CSD

DISMISSAL ORDER

Plaintiff Daniel W. Keller brings this civil rights action under 42 U.S.C. § 1983 to redress constitutional violations he claims he suffered while incarcerated. (ECF No. 1-1.) On June 17, 2025, the Court ordered Plaintiff to update his address by July 18, 2025. (ECF No. 6.) That deadline expired without an updated address from Plaintiff, and his mail from the Court is being returned as undeliverable. (See ECF No. 7.)

District courts have the inherent power to control their dockets, and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *See Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. *See Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *see also Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the Court’s need to manage its docket; (3) the risk of prejudice to defendants; (4) the public policy favoring disposition of

1 cases on their merits; and (5) the availability of less drastic alternatives. See *In re*  
2 *Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting  
3 *Malone*, 833 F.2d at 130).

4 The first two factors, the public's interest in expeditiously resolving this litigation  
5 and the Court's interest in managing its docket, weigh in favor of dismissal of Plaintiff's  
6 claims. The third factor, risk of prejudice to defendants, also weighs in favor of dismissal  
7 because a presumption of injury arises from the occurrence of unreasonable delay in filing  
8 a pleading ordered by the Court or prosecuting an action. See *Anderson v. Air West*, 542  
9 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the public policy favoring disposition of  
10 cases on their merits—is greatly outweighed by the factors favoring dismissal.

11 The fifth factor requires the Court to consider whether less drastic alternatives can  
12 be used to correct the party's failure that brought about the Court's need to consider  
13 dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining  
14 that considering less drastic alternatives before the party has disobeyed a court order  
15 does not satisfy this factor); accord *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th  
16 Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that  
17 “implicitly accepted pursuit of less drastic alternatives prior to disobedience of the court's  
18 order as satisfying this element[,]” *i.e.*, like the “initial granting of leave to amend coupled  
19 with the warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*).  
20 Courts “need not exhaust every sanction short of dismissal before finally dismissing a  
21 case but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779  
22 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed without  
23 the ability of the Court and Defendants to send Plaintiff case-related documents, filings,  
24 and orders, the only alternative is to enter a second order setting another deadline. But,  
25 without an updated address, the likelihood that the second order would reach Plaintiff is  
26 low, so issuing a second order will delay the inevitable and will further squander the  
27 Court's finite resources. Setting another deadline is not a meaningful alternative given  
28 these circumstances. Therefore, the fifth factor favors dismissal.

1 Having thoroughly considered these factors, the Court finds that they weigh in  
2 favor of dismissal. It is therefore ordered that this action is dismissed without prejudice  
3 based on Plaintiff's failure to file an updated address in compliance with the Court's June  
4 17, 2025 order.

5 The Clerk of Court is directed to enter judgment accordingly and close this case.  
6 No other documents may be filed in this now-closed case. If Plaintiff wishes to pursue his  
7 claims, he must file a complaint in a new case and provide the Court with his current  
8 address.

9 It is further ordered that Plaintiff's application to proceed *in forma pauperis* (ECF  
10 No. 5) is denied as moot.

11 DATED THIS 23<sup>rd</sup> Day of July 2025.

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15 MIRANDA M. DU  
16 UNITED STATES DISTRICT JUDGE  
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